

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
MAY 30, 2013**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

PRESENT: Angelo Colasante, Chair; Kenneth Gordon, Vice Chair; Brian Gildea, Clerk; Jeffrey Cohen; Jeffrey Dearing; Carol Amick; Todd Crowley; Stephen Henning

ABSENT: None

Mr. Colasante introduced himself and read the emergency evacuation notice. The Zoning Board of Appeals (ZBA) members introduced themselves. Mr. Colasante informed those in attendance that the ZBA assistant was not present to take notes this evening. This is a business meeting.

BUSINESS ITEM #1: Illumination of sign for B Good restaurant at 150 Great Road

Pamela Brown and John Olinto were present for B Good restaurant. Reference was made to the letter dated May 16, 2013 from Christopher Laskey to B Good Burger, LLC. Mr. Colasante explained that Mr. Laskey's letter asserts that the signage was in violation of the Sign By-Law because the sign, as presently constructed, is internally illuminated. There was further discussion of the documents submitted with the original application for special permit that indicated that the sign would be "Halo Lit". Members of the board discussed some pictures taken of the sign when illuminated as well as their first hand observations of the sign when lit. Mr. Cohen stated that "Halo Lit" signs have been found acceptable by this Board because the light from the signage reflects back on the wall of the building but does not directly pass through the sign to the viewer. The consensus of the Board was that the sign was in violation of the Sign Bylaw because it was not Halo-Lit but was internally illuminated. Mr. Olinto expressed concern because they planned to open the restaurant in about two weeks (June 12) and he felt he needed the sign to be successful.

There was discussion regarding options for modifying the sign or, in the alternative, illuminating the sign with external lamps.

Mr. Colasante opened the meeting for public comment on this matter.

Jim O'Neil provided comments with reference to his e-mail dated May 3, 2013. Mr. O'Neil stated that it was a "nice sign in the day". Mr. O'Neil provided some history on the Board's approval of "Halo-Lit" signage. In brief, Mr. O'Neil took the position that the present sign was internally illuminated and therefore was prohibited by the Sign Bylaw. Consequently he stated that the Board had no authority to approve the sign in its current configuration.

With no one else wanting to comment, Mr. Colasante closed the meeting for public comment on this matter.

The Board considered what would be needed to resolve this issue. The Board opined that it would take too long to re-engineer the sign illumination before the grand opening on June 12. The Board took notice that the signage had been approved as to size and appearance so a new application was not required. However, the Board felt that a formal submission of the final lighting solution and a new public hearing was warranted.

Hence, it was proposed that B Good be allowed to open using external white wash light on the signage in a form to be approved by Christopher Laskey and then be permitted to submit for the Board's approval a detailed description of the signage at a hearing to be conducted prior to the end of July, 2013.

MOTION: Mr. Gildea moved that B Good be allowed to open using external white wash light on the signage in a form to be approved by Christopher Laskey and then that B Good be permitted to submit a detailed description of the signage for the Board's approval at a public hearing to be conducted prior to the end of July, 2013.

Mr. Cohen seconded the motion.

Voting in favor: Colasante, Gordon, Gildea, Cohen, Dearing, Amick, Crowley and Henning

Voting against: None

Abstained: None

At a business meeting all members vote: 8-0-0

BUSINESS ITEM #2: Demolition of house at 12 Anthony Road.

Ken Gordon informed the petitioner that he had reviewed the minutes of the April 25, 2013 meeting and was invoking the Mullins Rule so that he could vote on this matter if necessary.

Present for the petitioner were Pamela Brown, John Mara, owner of Strawberry Hill Properties, LLC and Michael Shea, contractor for the project.

Mr. Mara explained that when they appeared before the Board on April 25th, they had just acquired the property. After having time to inspect the property, it was determined that the current foundation is hollow concrete block. This hollow concrete block will not support a two level structure. This contention was supported by a letter dated May 22, 2013 signed by Kanayo Lala, P.E. Consequently, the owner was proposing to demolish the current structure to permit the construction of a proper foundation to support the proposed 2 level structure that had been approved at the April 25th meeting. The owner and contractor explained that trying to replace, or alternatively improve, the foundation

with the structure in place was cost and operationally prohibitive. To this end there was much discussion about how reinforcing the current foundation might be accomplished.

With Mr. Laskey in attendance, Mr. Cohen asked Mr. Laskey for his opinion as to why the Board's approval was needed since the structure had been approved by the Board on April 25, 2013. Mr. Laskey stated that in his view, the requirement to construct a new foundation (even if to the same footprint as the old) was an intensification of the existing non-conformity.

Mr. Colasante opened the meeting for public comment on this matter. Because no one wished to comment, Mr. Colasante closed the meeting for public comment on this matter.

The Board members discussed their concern that demolition and construction of a foundation could have a significantly more negative impact to the community than was previously considered at the April 25, 2013 meeting. It was also recalled that some of the neighbors had voiced some concerns that the foundation could not support the proposed 2-story structure. The Board noted that the prior meeting was heavily attended and that there was significant comment opposing the project – specifically with respect to the negative impact that the construction would have on the neighbors. For these reasons the Board advised the petitioner that it would not consider this to be an insubstantial modification to the current special permit. Therefore, the petitioner was advised that they should apply for a modification to the special permit through the formal process if they truly prefer to demolish the existing structure.

No motion was presented and no vote was taken.

BUSINESS ITEM #3: Minor modification to sign at Panera, at 213 Burlington Road.

Present for the petitioner was Pamela Brown.

This is a request that the “as approved” sign be permitted to be changed to read: “Panera to you” with “to you” in script instead of reading: “Panera”. This is the second request for modification to this sign. Originally before the Board was a sign that read: “Panera Bread”. The Board previously approved a change from “Panera Bread” to “Panera”. Mrs. Brown submitted a document illustrating the change. This was marked as Exhibit A.

After some discussion as to the size of the original sign and the overall dimensions of the front wall of the establishment as well as the history of changes to the signage, it was generally viewed that the request represented a minor modification.

MOTION: Mr. Gildea moved that Board approve the proposed minor modification to the sign at Panera, at 213 Burlington Road as shown in Exhibit A.

Mr. Cohen seconded the motion.

Voting in favor: Colasante, Gordon, Gildea, Cohen, Dearing, Crowley and Henning

Voting against: Amick
Abstained: None

At a business meeting all members vote: 7-1-0

BUSINESS ITEM #4 (Not on the original agenda): Request for a formal extension of the variance.

Present for the petitioner was Pamela Brown.

Mrs. Brown circulated a memorandum dated May 30, 2013 requesting a formal extension of the variance granted by the Board to permit two otherwise non-conforming lots at 247 and 252 Concord Road.

There was not very much discussion of the matter except the Mr. Gildea noted it was “the double pork chop” lot that had been discussed at several meetings.

MOTION: Mr. Gildea moved that Board approve a formal extension of the variance previously granted by the Board to permit two otherwise non-conforming lots at 247 and 252 Concord Road.

Mr. Cohen seconded the motion.

Voting in favor: Colasante, Gordon, Cohen, Dearing, Amick and Henning
Voting against: None
Abstained: Gildea and Crowley

At a business meeting all members vote: 6-0-2

BUSINESS ITEM #5: Election of Board Member Positions

Ms. Amick moved that the Board re-elect all persons to their existing positions and that, because of the expected changes to the Board as of July 1, a new election be held immediately after July 1.

Mr. Cohen seconded the motion.

Voting in favor: Colasante, Gordon, Gildea, Cohen, Dearing, Amick, Crowley and Henning
Voting against: None
Abstained: None

At a business meeting all members vote: 8-0-0

Adjournment

MOTION:

Mr. Cohen moved to adjourn the meeting.

Ms. Amick seconded the motion.

Voting in favor: Colasante, Gordon, Gildea, Cohen, Dearing, Amick, Crowley and
Henning

Voting against: None

Abstained: None

The motion carried unanimously, 8-0-0.

The meeting adjourned at 9:42 PM.

Angelo Colasante, Chair

Date

Respectfully Submitted,

Scott Gould
ZBA Assistant